

AGENDA MEMO

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2007

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-22167 - APPLICANT/OWNER: DEAN SMITH

THIS ITEM WAS HELD IN ABEYANCE FROM THE SEPTEMBER 5, 2007 CITY COUNCIL MEETING AT THE REQUEST OF COUNCILMAN REESE.

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (6-0 vote) recommends APPROVAL, subject to:

Planning and Development

1. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**** STAFF REPORT ****

PROJECT DESCRIPTION

The project is a request for a Variance to allow the height of an existing accessory structure (Class II) to exceed the height of the principal dwelling and to allow the square footage to exceed 50 percent of the square footage of the principal dwelling on 0.5 acres at 4833 Nettie Avenue.

No topographical constraints exist on the project site to justify the need for any deviation from Title 19.08 Residential Development Standards for Accessory Structures. The height and floor area of the existing detached garage are considered excessive for an accessory structure (Class II). Staff recommendation is denial.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
04/05/07	A Building Plan Check (85492-R-07) was performed by Planning staff where it was determined that the existing detached accessory structure does not conform to Title 19 regulations with regard to structure height and square footage for an accessory structure (Non-habitable, Garage – Class II). The determination also identified the requirement for a Variance.
08/09/07	The Planning Commission recommended approval of companion item VAR-22965 concurrently with this application. The Planning Commission voted 6-0 to recommend APPROVAL (PC Agenda Item #33/ja).
<i>Related Building Permits/Business Licenses</i>	
02/08/06	Construction of a room addition, garage extension, and detached garage was identified as illegal by Building Department staff– Case No. 59386, Case Open, Building Permit Issued.
06/09/07	Building and Safety administratively approved a CMU screen wall – Case No. 85491, Case closed.
04/05/07	Building Plan Review of an existing bedroom (room addition) approved pending approval of the existing detached garage by Planning review and Development Coordination – Case Nos. 85492 and 85494, Case open.
<i>Pre-Application Meeting</i>	
05/11/07	A Pre-Application Meeting was held where Planning staff advised the applicant of Title 19.08 regulations governing the development of Accessory Structures and the Variance application requirements.
<i>Neighborhood Meeting</i>	
NA	

Field Check	
06/11/07	A site visit was conducted and the project parcel is a developed single family lot with a one-story house fronting with the subject garage at the rear of the lot. An approximate six foot tall screen wall and gates exist along the Westside side yard. The garage contains the same white and yellow color scheme as the primary dwelling and appears to be greater in height than the home. Surrounding uses include single family residential to immediately north, south, east, and west of the subject parcel.

Details of Application Request	
Site Area	
Net Acres	0.54 acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	R (Rural Density Residential)	R (Rural Density Residential)	R-E (Residence Estates)
North	R (Rural Density Residential)	R (Rural Density Residential)	R-E (Residence Estates)
South	R (Rural Density Residential)	R (Rural Density Residential)	R-E (Residence Estates)
East	R (Rural Density Residential)	R (Rural Density Residential)	R-E (Residence Estates)
West	R (Rural Density Residential)	R (Rural Density Residential)	R-E (Residence Estates)

Special Districts/Zones	Yes	No	Compliance
Special Area Plan		X	NA
Special Districts/Zones	Yes	No	Compliance
Special Purpose and Overlay Districts		X	NA
Trails		X	NA
Rural Preservation Overlay District	X		Y
Development Impact Notification Assessment		X	NA
Project of Regional Significance		X	NA

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following Residential Development Standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	20,000 feet	23,394 feet	Y
Min. Lot Width	100 feet	120 feet	Y
Min. Setbacks ACCESSORY STRUCTURE <ul style="list-style-type: none"> Rear Side 	3 feet 3 feet	25 feet 51 feet	Y Y
Min. Distance Between Buildings	NA	NA	NA
Max. Lot Coverage	NA	NA	NA
Max. Building Height <ul style="list-style-type: none"> ACCESSORY STRUCTURE 	Less than the primary dwelling – 13 feet	16 feet	N
Minimum Square Footage – Class II Accessory Structure	50 of the of the floor area of the primary dwelling (742 square feet)	1,200 square feet	N
Trash Enclosure	NA	NA	NA
Mech. Equipment	Screened	Screened	Y

ANALYSIS

- Zoning**

The project site is designated with the underlying zone as R-E (Residence Estates). The purpose of the R-E (Residence Estates) District is to provide for low density residential units on large lots and convey a rural environment. The parcel is designated as R (Rural Density Residential) in the General Plan and the R-E zone district is consistent with this land use.

- **Site Plan**

The site plan depicts an existing one-story 1,484 square foot single family residential structure fronting an existing 1,200 square foot garage. Title 19.08 – Residential Accessory Structures (Class II) standards limits the square footage of such buildings to less than 50 percent of the square footage of the main dwelling. The square footage of the existing accessory structure is 161 percent of the maximum of 742 square feet allowed for an accessory structure at this site. As this structure substantially exceeds the square footage limitation of the zoning code, staff recommends denial.

- **Plan Elevations**

Profiles of the existing garage indicate a stucco building with gabled and shingled roofing and dual garage doors. The cross sections indicate the existing detached garage rises to a height of 16 feet while the primary dwelling is 13 feet. Title 19.08 limits the height of residential Class II accessory structures to less than the height of the primary dwelling. As the height does not substantially conform to the zoning code requirements, staff recommendation is for denial of the Variance.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented in that the applicant has created a self-imposed hardship by constructing an accessory structure greater than the height of the primary dwelling with a square footage greater than 50 percent of the square footage of the primary dwelling. An alternative would be a reduced project design that decreases the project height to less than the primary dwelling and a reduction in square footage to less than 50 percent of the square footage of the primary dwelling. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

PLANNING COMMISSION ACTION

There was one speaker in favor at the Planning Commission Meeting.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 1

ASSEMBLY DISTRICT 14

SENATE DISTRICT 2

NOTICES MAILED 134 by City Clerk

APPROVALS 4

PROTESTS 0